

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DIAGEO NORTH AMERICA, INC.,

Plaintiff/Counterclaim Defendant,

v.

**W.J. DEUTSCH & SONS LTD. d/b/a DEUTSCH
FAMILY WINE & SPIRITS, and BARDSTOWN
BARREL SELECTIONS LLC,**

Defendants/Counterclaim Plaintiffs.

ECF CASE

Case No. 1:17-cv-04259-LLS

Hon. Louis L. Stanton

**ORAL ARGUMENT
REQUESTED**

SUPPLEMENTAL DECLARATION OF MICHAEL GROW

I am an attorney at Arent Fox LLP, counsel of record for W.J. Deutsch & Sons Ltd. d/b/a Deutsch Family Wine & Spirits and Bardstown Barrel Selections LLC (collectively “Deutsch” or “Defendants/Counterclaim Plaintiffs”) in the above-noted action. I respectfully submit this Declaration pursuant to the Court’s Order denying our Motion to Seal (Dkt. 239). As So Ordered, we are publicly filing exhibits previously filed under seal in connection with Defendants/Counterclaim Plaintiffs’ Motion to Exclude Plaintiff/Counterclaim Defendant’s Expert Phillip G. Hampton, II (Dkt. 213) (the “Hampton Motion”) and re-filing the exhibits that were publicly filed in support of the Hampton Motion.

1. Attached as **Exhibit 1** is a true and correct copy of the expert report for Phillip Hampton, II, dated March 1, 2019.

2. Attached as **Exhibit 2** is a true and correct copy of the rebuttal expert report for Phillip Hampton, II, dated May 3, 2019.

3. Attached as **Exhibit 3** is a true and correct copy of the cited excerpts from the June 14, 2019 transcript of the deposition of Diageo expert Phillip Hanpton, II.

4. Attached as **Exhibit 4** is a true and correct copy of the USPTO file wrapper for the Bulleit Trade Dress Application bearing bates number DFWS000038015

5. Attached as **Exhibit 5** is a true and correct copy of the expert Report for Gary Krugman, dated February 14, 2019.

6. Attached as **Exhibit 6** is a true and correct copy of the expert report of Perry Saidman, dated March 1, 2019.

7. Attached as **Exhibit 7** is a true and correct copy of cited excerpts from the transcript of the September 27, 2018 deposition of Jennifer Thomason.

8. Attached as **Exhibit 8** is a true and correct copy of cited excerpts from the transcript of the September 17, 2018 deposition of Cortney Provini.

9. Attached as **Exhibit 9** is a true and correct copy of cited excerpts from the transcript of the November 14, 2018 deposition of Thomas Steffanci.

10. Attached as **Exhibit 10** is a true and correct copy of an article from SpiritsBusiness.com titled “Black Bottle whisky Relaunched Historic Blend,” dated September 27, 2013, bearing bates number DFWS00146226 available at <https://www.thespiritsbusiness.com/2013/09/black-bottle-whisky-relaunched-historic-blend/#:~:text=Black%20Bottle%20Scotch%20whisky%20has,130%2Dyear%2Dold%20roots.&text=Channeling%20the%20vintage%20bottle%20trend,its%201879%20recipe%20and%20packaging.>

11. Attached as **Exhibit 11** is a true and correct copy of St. Brewery history, marked as Ex. K in Gary Krugman's Rebuttal Report, dated May 3, 2019, bearing Bates numbers DFWS00140538-542.

12. Attached as **Exhibit 12** is a true and correct copy of Declaration Of Julia A. Ziring, dated March 7, 2019.

13. Attached as **Exhibit 13** is a true and correct copy of the rebuttal expert report of C. Drew Desarno, dated April 12, 2019.


14. Attached as **Exhibit 14** is a true and correct copy of Dr. McGillicuddy's Imported Fireball Trademark Information, dated October 28, 2003, bearing Bates numbers DFWS00093411, DFWS00093446-47.

15. Attached as **Exhibit 15** is a true and correct copy of Rebecca Henry's deposition excerpts, dated January 24, 2019.

16. Attached as **Exhibit 16** is a true and correct copy of CCH Cosearch's report, dated July 3, 2002, bearing Bates number DIAGEO000068240-500.

17. Attached as **Exhibit 17** is a true and correct copy of CCH Cosearch's report, dated July 3, 2002, bearing Bates number DIAGEO000068501-752.

I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct copy of a webpage.

By: 

Michael Grow
ARENT FOX LLP
Date: January 26, 2001